

**Notice of Allowability**

Application No.

09/487,979

Examiner

Phillip Gambel

Applicant(s)

SKURKOVICH ET AL.

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/26/04
2. ☒ The allowed claim(s) is/are 42,46 RENUMBERED 1-2.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

*PHILLIP GAMBEL*  
Phillip Gambel  
Primary Examiner  
Art Unit: 1644  
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Art Unit: 1644

### DETAILED ACTION

1. Applicant's amendment, filed 4/26/04, has been entered.

Claim 46 has been amended.

Claims 1-41, 43-44 and 47 have been canceled previously.

Claims 42, 45, 46 and 48-50 are pending.

2. Applicant is reminded that the Listing of the Claims is not a complete listing of all of the claims. Additionally, each claims has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. For further explanation of the amendment format required by 37 CFR § 1.121, see MPEP § 714.

### EXAMINER'S AMENDMENT

3. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the Issue Fee.

4. Claims 45 and 48-50, drawn to nonelected claims, have been canceled.

5. The title has been replaced with the following:

-- TREATMENT OF AIDS WITH ANTIBODIES TO GAMMA INTERFERON, ALPHA INTERFERON AND TNF-ALPHA -- .

### LISTING OF CLAIMS

6. The following is a complete list of the claims.

Claims 1-41. (Canceled).

Claim 42. (Previously Presented). A method of treating Acquired Immunodeficiency Disease in a patient comprising administering to said patient an effective amount of a combination of an antibody to gamma interferon, an antibody to alpha interferon, and an antibody to tumor necrosis factor-alpha.

Claims 43-45. (Canceled.)

Claim 46. (Previously Presented) The method of claim 42, wherein said antibody is selected from the group consisting of a monoclonal antibody, a polyclonal antibody, combinations thereof, and a biologically active fragment wherein the biologically active fragment is a fragment of an antibody and binds gamma interferon, alpha interferon or tumor necrosis factor alpha.

Claims 48-50. (Canceled)

### REASONS FOR ALLOWANCE

7. The following is an Examiner's Statement of Reasons for Allowance:

Upon reconsideration of applicant's amended claims, filed 4/26/04; the previous rejections under 35 USC 112, first and second paragraphs have been withdrawn. In addition, upon reconsideration of applicant's arguments, particularly with respect to the disclosure of Skurkovich (Medical Hypothesis 42: 27-35, 1994, particularly page 31, paragraph 2) that the administration of antibodies to interferons is impractical; the previous rejections under 35 USC 103(a) has been withdrawn. Accordingly, the instant claims are deemed allowable.

8. Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably **accompany** the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gambel whose telephone number is (571) 272-0844. The examiner can normally be reached Monday through Thursday from 7:30 am to 6:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841.

The fax number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Phillip Gambel*

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